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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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**MARTIN EVANS and KATHLEEN  
EVANS,**

**Plaintiffs,**

**vs.**

**RECONSTRUCT COMPANY, N.A., ET  
AL.,**

**Defendants.**

**ORDER SETTING ASIDE DISMISSAL**

**Case No. 2:11CV547DAK**

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On August 17, 2011, this court granted Defendants ReconTrust Company, N.A., Mortgage Electronic Registration Systems, Inc., Bank of America N.A., the Bank of New York Mellon as Trustee for the Certificate Holders of Alternative Loan Trust, Series 2003-7T1 Mortgage Pass-Through Certificates, Series 2003-17, BAC Home Loans Servicing L.P., and BAC GP, LLC's motion to dismiss, which was filed June 21, 2011, because Plaintiffs did not file an opposition to the motion. Plaintiffs now request the court to set aside that dismissal and allow them to file an opposition to the motion. Plaintiffs state that they were not aware of the motion to dismiss. With the court's CM/ECF system, there is no reason why counsel should be unaware of a pending motion. Nonetheless, because Defendants do not oppose the motion to set aside the dismissal, the court grants the motion and will allow Plaintiffs (20) twenty days to file a response to Defendants' motion. If, after review of Plaintiffs' opposition, the court determines that the

opposition is not filed in good faith, the court will consider sanctions.<sup>1</sup>

DATED this 22<sup>nd</sup> day of September, 2011.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball", written over a horizontal line.

DALE A. KIMBALL  
United States District Judge

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<sup>1</sup> The court notes that Plaintiffs' Motion to Set Aside indicates that Magistrate Judge Samuel Alba is the judge in this matter. The case was reassigned to Judge Dale A. Kimball, and Judge Kimball granted the Motion to Dismiss. Plaintiffs shall indicate in all future pleadings that the case number is 2:11CV547DAK and that the judge is Judge Dale A. Kimball. Moreover, Plaintiffs did not follow this court's rules in filing their proposed order for this motion. Plaintiffs attached the proposed order only as an exhibit to their motion, but did not email the proposed order in Word or Word Perfect format to [utdecf\\_kimball@utd.uscourts.gov](mailto:utdecf_kimball@utd.uscourts.gov) as required. Plaintiffs shall comply with the court's rules in submitting all future proposed orders.